FILED
United States Court of Appeals
Tenth Circuit

June 18, 2008

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

In re:	
WILLIAM R. SATTERFIELD,	No. 08-5089
Movant.	

ORDER

Before **LUCERO**, **HARTZ**, and **TYMKOVICH**, Circuit Judges.

William R. Satterfield, a federal prisoner appearing pro se, has filed an application for leave to file a second or successive § 2255 motion. We deny leave to file.

Mr. Satterfield pled guilty in 2004 to two counts of odometer tampering and one count of conspiracy. He did not file a direct appeal but, instead, filed a § 2255 petition which was denied by the district court. This court refused to grant a certificate of appealability. *United States v. Satterfield*, 218 F. App'x 794, 796 (10th Cir. 2007). Mr. Satterfield then filed a petition for writ of habeas corpus under 28 U.S.C. § 2241, which was similarly denied. This court affirmed on appeal. *Satterfield v. Scibana*, No. 07-6292, 2008 WL 1913391 (10th Cir. Apr. 30, 2008). Mr. Satterfield now wishes to make a third attempt to secure post-conviction relief.

A federal prisoner may not file a second or successive § 2255 motion unless it is "certified as provided in [28 U.S.C. §] 2244 by a panel of the appropriate court of appeals." 28 U.S.C. § 2255(h). A court of appeals may certify the filing of a second or successive § 2255 motion "only if it determines that the application makes a prima facie showing" that the motion satisfies the requirements of § 2255(h). *Id.* § 2244(b)(3)(C); *see Coleman v. United States*, 106 F.3d 339, 341 (10th Cir. 1997) (incorporating § 2244(b)(3)(C)'s "prima facie showing" standard into § 2255's second or successive requirements).

Section 2255(h) requires a federal prisoner seeking authorization to demonstrate that his proposed claims either depend on "newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found [him] guilty of the offense," § 2255(h)(1), or rely upon "a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable," § 2255(h)(2). Mr. Satterfield bases his motion for authorization on newly discovered evidence.

Mr. Satterfield's "evidence" is neither evidence nor is it newly discovered. He argues that, after personally researching the law, he "discovered that all of the vehicles of which I was accused in engaging in wrongdoing, were exempt from the statutes under which I was charged." App. at 5. To substantiate this claim he

attaches a letter from the National Highway Traffic Safety Administration and a copy of 49 C.F.R. § 580.17.

Mr. Satterfield pled guilty in 2004. To the extent he can garner any succor from 49 C.F.R. § 580.17, an issue on which we express no opinion, we note that § 580.17 has been on the books since the late 1980's. As such it is not "new" for purposes of a second or successive application. The letter from the Highway Safety Administration does nothing more than summarize the operation of federal odometer law and explain steps a consumer can take if he or she suspects odometer tampering. It has nothing to do with Mr. Satterfield's case per se. As such, the letter, even if "new evidence," would not "be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense." 28 U.S.C. § 2255(h)(1).

Accordingly, the motion for authorization is DENIED, and this matter is DISMISSED. This denial of authorization is not appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari. *See* 28 U.S.C. § 2244(b)(3)(E).

Entered for the Court

ELISABETH A. SHUMAKER, Clerk